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Wednesday, September 08, 2004TOTAL NUMBER OF PAGES:  
11TO:  
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(703) 308-5077TELEPHONE NUMBER:  
(703) 306-3421FROM:  
Diane K. Wong, Reg. No. 54,550RETURN FAX NUMBER:  
(949) 737-2300TELEPHONE NUMBER:  
(949) 737-2900**MESSAGE**Re: Tsugita et al.  
U.S. Application Serial No. 09/467,293Attorney Docket No. 244,610-155  
(formerly docket 247/062)Document(s) attached:

1. Letter (2 pages) - Request for Refund re Deposit Account No. 50-2862
2. COPY of Application Transmittal dated 12/17/99 (4 pages)
3. COPY of CPA Application Transmittal dated 02/20/01 (2 pages)
4. Deposit Account No. 50-2862 Statement dated July 2004 (2 pages)

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USER NO.: 13367  
RESPONSIBLE ATTY NAME: Diane K. Wong  
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September 8, 2004

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P.O. Box 1450  
Alexandria, VA 22313-1450

OUR FILE NUMBER  
244,610-155

WRITER'S DIRECT DIAL  
(949) 737-2924

WRITER'S E-MAIL ADDRESS  
dkwong@omm.com

Re: **Request for Refund - Deposit Account No. 50-2862**

Dear Sirs:

The above-referenced deposit account contains an erroneous charge for claims in excess of twenty in connection with United States Patent Application No. 09/467,293 (Our Reference: 244,610-155, formerly 247/062).

This application was originally filed in the USPTO on December 17, 1999 with 27 total claims (2 of which were independent). Applicant provided proper authorization to charge Deposit Account No. 12-2475 for applicable filing and excess claim fees in the amount of \$443.00 (copy of Continuation Application Transmittal attached). On February 20, 2001, a Request for Filing a Continued Prosecution Application was filed in the USPTO. Applicant provided proper authorization to charge Deposit Account No. 12-2475 for applicable filing and excess claim fees for in the amount of \$710.00 (copy of CPA Transmittal attached).

On May 25, 2004, Applicant submitted its response to the Office Action dated February 26, 2004, but did not amend the pending claims (19; 23-28).

On July 7, 2004, our deposit account was charged for excess claims (\$63.00) as Sequence No. 3 (copy of July 2004 Deposit Account Statement attached). We believe this fee should not have been charged to our deposit account and request that \$63.00 be credited back to Deposit Account No. 50-2862.

**BEST AVAILABLE COPY**

O'MELVENY & MYERS LLP  
Mail Stop 16, September 8, 2004 - Page 2

Should you have any questions, please do not hesitate to contact us.

Sincerely,

*Diane K. Wong*

Diane K. Wong  
Registration No. 54,550  
for O'MELVENY & MYERS LLP

DKW:kmg

Enclosures

Patent  
247/062

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 247/062  
First Named Inventor: TRAVIS  
Prior Application Information:  
Serial No. 09/387,634  
Branch: To be Assigned  
Art Unit: 2763BOX PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D. C. 20231

## FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation ☐ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/387,634 filed on August 31, 1999, by

Ross S. Tangle and Tracy D. Manha, entitled:

## BALLOON OCCLUSION DEVICE AND METHODS OF USE

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## I. APPLICATION ELEMENTS ENCLOSED

- 38 Page(s) of Written Description  
04 Page(s) of Claims  
01 Page(s) of Abstract  
20 Sheet(s) of Drawings ☒ formal ☐ informal  
04 Page(s) of ☐ Declaration or ☒ Supplemental Declaration and Power of Attorney  
☒ Copy from prior application [37 CFR §1.63(d)]  
☐ Newly executed  
02 Other: Copy of Verified Statement Small Entity Status - Small Business Concern

CERTIFICATE OF MAILING  
(37 CFR §1.10)

I hereby certify that this paper (along with any attachments as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EL496952457US  
Express Mail Label No.December 17, 1999  
Date of DepositFrances B. Thomson  
Name of Person Mailing PaperFrances B. Thomson  
Signature of Person Mailing Paper

Patent  
247/062

- ☐ Assignment papers (cover sheet and documents(s))
- ☒ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☒ A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27: ☐ Is attached. ☒ Has been filed in the prior application and such status is still proper and desired. [37 CFR § 1.28(a)]

**II. FEE CALCULATION**

<b>BASIC FILING FEE:</b>						<b>\$760.00</b>
Total Claims	27	-	20	=	7	x \$18.00 \$126.00
Independent Claims	2	-	3	=	0	x \$78.00 \$0.00
Multiple Dependent Claims	\$260	(if applicable)				<input type="checkbox"/> \$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						<b>\$886.00</b>
Reduction by 1/2 for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.						<input checked="" type="checkbox"/> \$443.00
Misc. Filing Fees (Recording of Assignment)						\$0.00
<b>TOTAL FEES DUE HEREWITH</b>						<b>\$443.00</b>

**III. PRIORITY - 35 USC § 119**

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

**IV. RELATE BACK - 35 USC § 120**

- ☒ Relate back information included in preliminary amendment or specification.
- ☐ Please amend the specification as follows:  
[Enter continuing data here]
- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
- ☒ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§ 1.33(b) AND 1.63(d)(2)]:  
[Name(s) of inventor(s) to be deleted]

Patent  
247/062**V. FEE PAYMENT BEING MADE AT THIS TIME**

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]
- ☐ Attached.
- ☐ Filing fees. -----
- ☐ Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)] -----
- ☐ Petition fee for filing by other than all the inventors or person on behalf of the inventor whose inventor refused to sign or cannot be reached. -----  
[\$130.00; 37 CFR §§ 1.47 and 1.17(b)]
- ☐ Petition fee to Suspend Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently). -----  
[\$130.00; 37 CFR §§ 1.103 and 1.17(d)]
- ☐ For processing an application with a specification in a non-English language. -----  
[\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)]
- ☐ Processing and retention fee. -----  
[\$130.00; 37 CFR §§ 1.53(f) and 1.24(f)]

Total Fees Enclosed -----

**VI. METHOD OF PAYMENT OF FEES**

- ☐ Attached is a check in the amount of \_\_\_\_\_.
- ☒ Charge Lyon & Lyon's Deposit Account No. 12-2475 in the amount of \$443.00.

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Lyon & Lyon's Deposit Account No. 12-2475 for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. 12-2475:

- ☒ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☒ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.18 (Issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- ☐ The power appears in the original papers in the prior application.
- ☒ The power does not appear in the original papers, but was filed on May 20, 1998 in prior application Serial No. 08/293,202 (copy attached).
- ☐ A new power has been executed and is attached.

Patent  
247/062

Please send all correspondence to Customer Number 22249:

LYON & LYON LLP  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071

Please direct all inquiries to John Kappos, at 949-567-2300.

Respectfully submitted,

LYON &amp; LYON LLP

Dated: December 17, 1999By: John Kappos  
John Kappos  
Reg. No. 37,861

Enclosures

EMBOL-X, INC.  
Name of Assignee645 Clyde Avenue, Mountain View, CA 94043-2213  
Address of AssigneeYue-Teh Yang, President and Chief Executive Officer  
Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on 02/27/98, Reel 9191, Frame 0484

Patent  
Attorney Docket: 247/062

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 247/062  
First Named Inventor: Tsugita et al.  
Prior Application Information:  
Serial No.: 09/467,293  
Examiner: M. Mendez  
Art Unit: 3763BOX CPA  
Commissioner for Patents  
Washington, D.C. 20231

## CONTINUED PROSECUTION APPLICATION (CPA) UNDER 37 CFR § 1.53(D)

This is a Request for filing a Continuation Application, under 37 CFR § 1.53(d) (Continued Prosecution Application (CPA)) of prior application Serial No. 09/467,293 filed on December 17, 1999, entitled BALLOON OCCLUSION DEVICE AND METHODS OF USE by TSUGITA et al., which remains the same for this Continuing Application.

The above-identified application in which no payment of Issue Fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this request for a CPA. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application.

1. ☒ Use claims as on file in prior application.
2. ☒ A Preliminary Amendment is enclosed.
3. ☐ This application is filed by fewer than all the inventors named in the prior application. Pursuant to 37 CFR § 1.53(d)(4) please delete the following inventors named in the prior application:
4. ☐ A new Power of Attorney or Authorization of Agent is enclosed.
5. ☒ Information Disclosure Statement with PTO-1449; ☒ copy of citations.
6. ☐ Applicant claims small entity status pursuant to 37 CFR 1.27.

## CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being included or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as "Express Mail Post Office To Addressee" in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

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Date of Deposit*Cynthia B. Pacheco*  
Cynthia B. Pacheco



Patent  
Attorney Docket: 247/062

7. ☐ Request for extension of time to respond is being filed in the prior application to maintain copendency.
8. ☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35
9. ☐ Also enclosed: \_\_\_\_\_

The filing fees due in accordance with 37 CFR § 1.16 have been calculated as shown below:

<b>BASIC FILING FEE:</b>						<b>\$710.00</b>
Total Claims	7	-	20	=	0	x \$18.00 \$0.00
Independent Claims	2	-	3	=	0	x \$80.00 \$0.00
Multiple Dependent Claims	\$270	(if applicable)				<input type="checkbox"/> \$0.00
<b>TOTAL OF ABOVE CALCULATION</b>						<b>\$710.00</b>
Reduction by 1/2 for Filing by Small Entity						<input type="checkbox"/> \$0.00
Other Fees (itemize)						\$0.00
<b>TOTAL FEES DUE HEREWITH</b>						<b>\$710.00</b>

- ☒ A check is enclosed in the amount of \$710.00 is enclosed.
- ☐ Charge Lyon & Lyon's Deposit Account No. 12-2475 in the amount of \_\_\_\_\_
- ☒ The Commissioner is authorized to charge Lyon & Lyon's Deposit Account No. 12-2475 for any fees required under 37 CFR §§ 1.16, 1.17, 1.21 and 1.445 that are not covered, in whole or in part, by any amounts enclosed herewith and to credit any overpayments to said Deposit Account No. 12-2475.

Please send all correspondence to Customer Number 22249:



**LYON & LYON LLP**  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071  
(213) 469-1600

Please direct all telephone calls to Bonita L. Severy at (949) 567-2300.

Respectfully submitted,

LYON & LYON LLP

Dated: February 19, 2001

By: B. L. Severy

Bonita L. Severy  
Reg. No. 43,913  
Attorneys for Applicants

## Deposit Account Statement



United States

Patent Law

Trademark Law

## Deposit Account Statement

Requested Statement Period:

July 2004

Deposit Account Number:

602882

Name:

O'MELVENY &amp; MYERS LLP

Attention:

KIM M. GODFREY

Address:

1100 PACIFICA

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IRVINE

State:

CA

Zip:

92618

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07/02	3	10123861	272/291	2252	\$210.00	\$9,397.00
07/02	72	10024405		8021	\$40.00	\$9,357.00
07/07	3	09467283		2202	\$63.00	\$9,294.00
07/08	73	10052688	270/236	2252	\$210.00	\$9,084.00
07/08	96	101981	844004999	8013	-\$25.00	\$9,109.00
07/09	28	60585284	663884-002	2005	\$80.00	\$9,029.00
07/09	65	10884124	161,700-102	2001	\$385.00	\$8,644.00
07/09	66	10884124	161,700-102	2202	\$27.00	\$8,617.00
07/09	355	PCT/US04/21124	479,468-000	1601	\$300.00	\$8,317.00
07/09	356	PCT/US04/21124	479,468-000	1603	\$300.00	\$8,017.00
07/09	357	PCT/US04/21124	479,468-000	1701	\$1,053.00	\$6,964.00
07/09	358	PCT/US04/21124	479,468-000	1703	\$108.00	\$6,856.00
07/09	359	PCT/US04/21124	479,468-000	8007	\$20.00	\$6,836.00
07/12	110	10885910	032,290-075	1001	\$770.00	\$6,066.00
07/13	76	PAYMENT		8203	-\$3,483.00	\$9,549.00
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07/14	450	6162603	612,404-241	1811	\$100.00	\$9,349.00
07/16	150	09330755	665,080-007	2401	\$165.00	\$9,184.00
07/20	21	10167938	274/047	2801	\$385.00	\$8,799.00
07/20	22	10167938	274/047	2253	\$475.00	\$8,324.00
07/20	23	10167938	274/047	1808	\$180.00	\$8,144.00
07/20	24	10167938	274/047	2814	\$55.00	\$8,089.00
07/20	48	09330755	665,080-007	2401	-\$165.00	\$8,254.00
07/20	49	09330755	665,080-007	2402	\$165.00	\$8,089.00
07/22	16	PAYMENT		8203	-\$4,478.00	\$12,567.00
07/27	10	10856005	161,700-100	2202	\$9.00	\$12,558.00
07/29	7	09783763	260/095	1253	\$950.00	\$11,608.00
07/29	151	10899880	612,404-445	1001	\$770.00	\$10,838.00

07/30 277	10366024	145,445-014 2801	\$665.00	\$10,173.00
07/30 278	10366024	145,445-014 1804	\$300.00	\$9,873.00
07/30 279	10366024	145,445-014 2801	\$30.00	\$9,843.00
07/30 375	PCT/US04/24109	683,998-014 1801	\$300.00	\$9,543.00
07/30 376	PCT/US04/24109	683,998-014 1802	\$1,000.00	\$8,543.00
07/30 377	PCT/US04/24109	683,998-014 1701	\$1,053.00	\$7,490.00
07/30 378	PCT/US04/24109	683,998-014 1703	\$300.00	\$7,190.00
07/30 379	PCT/US04/24109	683,998-014 8007	\$20.00	\$7,170.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
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